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Nation's Environmental Stewardship Since 1974

## **ASTSWMO STATEMENT ON COAL COMBUSTION RESIDUALS PROGRAM IMPLEMENTATION**

The U.S. Environmental Protection Agency (EPA) Administrator signed the Disposal of Coal Combustion Residuals (CCRs) from Electric Utilities final rule on December 19, 2014, and it was published in the *Federal Register* on April 17, 2015. This rule finalized national regulations to provide a comprehensive set of requirements for the safe disposal of CCRs from coal-fired power plants. The final rule and subsequent amendments establish technical requirements for CCR landfills and surface impoundments under subtitle D of the Resource Conservation and Recovery Act (RCRA), the nation's primary law for regulating solid waste. EPA is encouraging States and Territories (States) to adopt the federal rule by seeking EPA approval of State CCR permit programs.

On November 3, 2021, as part of the Association of State and Territorial Solid Waste Management Officials (ASTSWMO) Annual Meeting, a virtual session was held to discuss issues surrounding the implementation of the CCR rule and permit program across the country. Many States are working towards obtaining EPA CCR permit program approval. As such, several topics related to State adoption and implementation of the CCR program require additional input from EPA in the form of rule or guidance. To provide for greater certainty, ASTSWMO urges EPA to:

- Take the necessary steps to finalize the remaining federal regulations as expeditiously as possible to enable States to receive full CCR permit program approval.
- Provide written decisions on the demonstrations submitted under the Part A and Part B rules, as EPA has begun to do by providing written proposed decisions for several Part A demonstrations.
- Update the State Permit Program Guidance to provide clear, consistent direction to States as to what is needed in the submission of CCR Permit Program Approval applications to EPA, and the criteria EPA uses in evaluating those applications for sufficiency.
- Provide written expectations for enhanced public participation and environmental justice determinations for State CCR Permit Program Approval applications.
- Consistently coordinate with States prior to and during any compliance and enforcement actions that EPA undertakes under authority of Section 2301 of the 2016 Water Infrastructure Improvements for the Nation Act, and provide written expectations of compliance and enforcement efforts such as timeliness of assessment of corrective measures completion and timeliness of remedy selection.
- Finalize State grant funding requirements for work related to developing State programs for both CCR landfills and surface impoundments.
- Provide guidance on beneficial use of CCR, which continues to be a key State issue. ASTSWMO prefers beneficial use guidance to a regulatory approach because guidance provides States the flexibility needed to implement regulatory procedures that work within a State's existing regulatory framework and the flexibility needed to make site-specific technical decisions. ASTSWMO agrees that the use of large quantities of CCR without a functional benefit and which may cause environmental harm should not be viewed as a beneficial use. However, a one-size-fits-all regulatory approach is not effective.

ASTSWMO stands ready to assist EPA by providing input on rulemakings and in the development of written documentation of EPA's expectations for program elements to provide clarity and certainty for State program implementation.

**Approved for release by the ASTSWMO Board of Directors on January 26, 2022.**